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Navy Case No. 82,627

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :  
Louis F. Aprigliano et al. :  
Serial No. 09/656,017 : Group Art Unit: 1722  
Filed: Sept. 7, 2000 : Examiner: K. Lin  
For: METHOD OF PRODUCING CORROSION : CONFIRMATION NO. 2288  
RESISTANT METAL ALLOYS WITH :  
IMPROVED STRENGTH AND DUCTILITY : GROUP DIRECTOR

14/8W  
4/18/02

PETITION UNDER RULE 181

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

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Pursuant to 37 CFR 1.181 applicants hereby again petition the Commissioner with respect to exparte prosecution of the above entitled application.

STATEMENT OF FACTS INVOLVED

1. On Feb. 11, 2002, a decision was rendered on a Petition Under 37 CFR 1.181 to withdraw the finality of a prior final Office action dated Nov. 8, 2001, as premature because of incompleteness.
2. On Feb. 26, 2002, another final Office action was mailed, indicating withdrawal of the finality of the previous Office action of Nov. 8, 2001 and replacing it with the same final rejections of claims 1-3 and 5-8 coupled with responses to applicants' prior arguments of record, involving increase in strength and maintenance of ductility as claimed patentable distinctions over the prior art references relied on. Such responses which were submitted for the first time by the Examiner in order to remove the incompleteness of the prior final Office action, included the introduction of an issue as to the scope of the claims, reflected by the Examiner's statement: "the

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scope of the claim does not clearly describe from what strength the strength is increased and under what ductility the ductility is maintained".

3. On March 7, 2002, applicants filed an Amendment Under Rule 116, proposing insertion into claims 2, 6 and 8 of statements on data which explicitly indicates the extent to which strength is increased and ductility is maintained, in view of the claim scope issue introduced by the Examiner.

4. On March 27, 2002, an Advisory Action was mailed, wherein the Examiner denied entry of the proposed Rule 116 amendments as raising a new issue requiring further consideration and/or search.

#### REMEDIAL ACTION REQUESTED

It is requested that the finality of the latest final Office action dated Feb. 26, 2002 be withdrawn and prosecution reopened so as to enter the Rule 116 Amendment dated March 7, 2002 and thereby accord further consideration/or search to claims 1-3 and 5-8 as amended.

#### MEMORANDUM IN SUPPORT OF PETITION

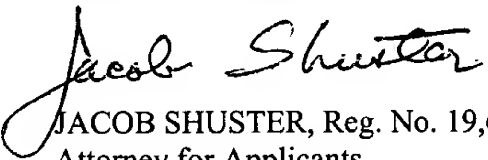
The issue involving claim scope in regard to strength increase and ductility maintenance was introduced by the Examiner in an effort to rectify incompleteness with respect to a previous final Office action held to be incomplete by decision of the Group Director. In view thereof, the amendments now proposed under Rule 116 could not have been earlier submitted and are necessary to deal with the issue belatedly introduced by the Examiner. Furthermore, since the Examiner deems it necessary to provide further consideration and/or search with respect to such issue resulting from entry of the proposed amendments, withdrawal of finality is again in order so to reopen prosecution for that purpose.

Conclusion

In view of the foregoing, the requested remedial action is hereby sought in advance of the May 26, 2002 deadline for Appeal.


The Petition fee of \$130.00 is requested to be charged to Deposit Account No. 50-0958. Please charge any additional fees or credit overpayments to the same deposit account. (A duplicate copy of this petition is therefore forwarded herewith for account purposes).

Respectfully submitted,

  
JACOB SHUSTER, Reg. No. 19,660  
Attorney for Applicants

Tele: (301) 227-1834

OFFICE OF COUNSEL CODE 004  
NAVAL SURFACE WARFARE CENTER  
CARDEROCK DIVISION HEADQUARTERS  
DAVID TAYLOR MODEL BASIN  
9500 MACARTHUR BOULEVARD  
WEST BETHESDA, MD 20817-5700

  
JOHN FORREST, Reg. No. 29,378  
Associate Counsel for Intellectual Property